

BILLY RAY RILEY,	)	
	)	
Petitioner,	)	3:01-cv-0096-RCJ-VPC
	)	
vs.	)	
	)	<b>ORDER</b>
RENEE BAKER, <i>et al.</i> ,	)	
	)	
Respondents.	)	
	)	
	/	

In this capital habeas corpus action, this court denied Billy Ray Riley's second amended habeas petition on September 20, 2010, and judgment was entered (ECF Nos. 198, 199), and, then, on February 4, 2011, the court denied Riley's motion for reconsideration (ECF No. 206). Riley appealed, and on May 15, 2015, the Ninth Circuit Court of Appeals reversed, and remanded the case to this court, with instructions for this court to grant Riley habeas corpus relief with respect to his murder conviction. *See Riley v. McDaniel*, 786 F.3d 719 (2015). The court of appeals denied rehearing and rehearing en banc on June 29, 2015 (ECF No. 224). The United States Supreme Court denied certiorari on March 21, 2016. *See Baker v. Riley*, 136 S.Ct. 1450 (2016). The court of appeals issued its mandate on April 26, 2016 (ECF No. 229). On May 10, 2016, this court ordered the court of appeals' mandate spread upon the record (ECF No. 231).

On May 25, 2016, this court denied a “Motion for Rule 60(B) Relief from Judgment” (ECF No. 232) filed by respondents, and ordered the parties to meet and confer, and file briefing, regarding their proposals for the form of an order granting Riley relief as ordered by the court of appeals. *See* Order entered May 25, 2016 (ECF No. 234). On June 24, 2016, Riley filed a proposed order (ECF No. 235). On July 5, 2016, respondents filed their response to Riley’s proposed order, objecting only to Riley’s characterization of the claim upon which the court of appeals ordered him granted relief. *See* Objections to Proposed Order (ECF No. 236). Riley replied on July 12, 2016 (ECF No. 237), suggesting that the language found objectionable by respondents could be removed from the proposed order.

The court of appeals’ order, reversing the judgment of this court and remanding the case with instructions to enter a new judgment granting Riley a writ of habeas corpus, states:

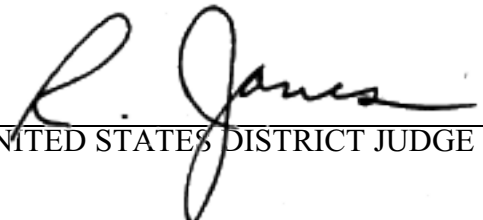
The judgment of the district court is reversed. This case is remanded with instructions to grant the writ unless the State of Nevada elects to pursue a new trial within a reasonable amount of time.

*Riley*, 786 F.3d at 727.

**IT IS THEREFORE ORDERED** that petitioner’s second amended petition for writ of habeas corpus (ECF No. 73) is **GRANTED**, with respect to Ground 8 of his second amended petition. The respondents shall, within 180 days from the date of this order, release petitioner from custody on his conviction and sentence for first degree murder, unless, within 60 days from the date of this order, the respondents file in this case a written notice of the State’s election to retry petitioner on the murder charge, and, within 180 days from the date of this order, proceedings toward the new trial on the murder charge are initiated.

**IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment accordingly.

Dated this 19<sup>th</sup> day of August, 2016.

  
UNITED STATES DISTRICT JUDGE